

## 1.0 Intent

- 1.1 This policy governs how complainants may report sexual harassment complaints and how the district will handle the grievance process to provide prompt and equitable resolution of all sexual harassment complaints under Title IX and the California Education Code.
- 1.2 For student complaints, the district's primary concern shall be student safety and any investigation or disciplinary measure must be consistent with board policy, regulation, and the student code of conduct in conjunction with California law.
- 1.3 Title IX complaints will be handled by designated Title IX individuals at the district and colleges. Los Rios has a Title IX Coordinator at the district office and each of its four colleges. During the Title IX grievance process, responsible Title IX individuals may be asked to participate in the grievance process at a different district college or location if a conflict or need arises.
- 1.4 Responsible Title IX individuals include:
  - 1.1.1 Title IX Coordinators - oversees Title IX compliance, intake meetings, accepts the formal complaint, implements supportive measures, considers dismissals; coordinates the grievance process;
  - 1.1.2 Investigator(s) - investigates the formal complaint and provides an investigative report of the evidence for the complainant, respondent and/or advisors (if any) to review; prepares a final investigative report;
  - 1.1.3 Hearing Officers (aka Decision Makers) - conducts the hearing, facilitates direct examination and cross-examination, makes determinations on questions to be asked, and renders final written decision with findings, policy determination(s), and rationale; where applicable implements or recommends sanctions and remedies;
  - 1.1.4 Advisors – individuals who act on behalf of the complainant and respondent during the live hearing;
  - 1.1.5 Appeal Decision Maker - handles appeal requests and renders a written decision on appeals;
  - 1.1.6 Informal Resolution Facilitator – handles efforts to informally resolve formal complaints
- 1.5 The Title IX Coordinators, investigator(s), hearing officer, advisors, appeal decision maker, and informal resolution facilitator shall receive training on the Title IX regulations, definition of sexual harassment, the scope of the education program or activity, how to conduct an investigation and grievance process, and how to serve impartially by avoiding prejudgment of facts, conflicts of interest, trauma-informed practices, and specific or general biases.

- 1.6 Any complaints of sexual harassment that fall outside the scope of Title IX will be handled consistent with applicable laws and regulations.

## 2.0 Definitions

- 2.1 Sexual harassment is defined as conduct on the basis of sex that satisfies one or more of the following:
- 2.1.1 An employee of the District conditioning the provision of an aid, benefit, or service of the District on an individual's participation in unwelcome sexual conduct; or
  - 2.1.2 Unwelcome conduct determined by a reasonable person to be so severe, pervasive and objectively offensive that it effectively denies a person equal access to the District's education program or activity; or
  - 2.1.3 Sexual assault as defined in 20 U.S.C. 1092(f)(6)(A)(v) "dating violence" as defined in 34 U.S.C. 1229(a)(10) "domestic violence" as defined in 34 U.S.C. 12291(a)(8) or "stalking" as defined in 34 U.S.C. 12291(a)(30)
    - 2.1.3.1 Forcible sexual assault includes any sexual act directed against a person, forcibly, against that person's will, or without consent; includes rape, sodomy, sexual assault with an object, and fondling
    - 2.1.3.2 Non-forcible sexual assault includes offenses that do not involve force where the person is incapable of giving consent, including statutory rape and incest
    - 2.1.3.3 Dating violence includes violence on the basis of sex committed by someone who has been in a social relationship of a romantic or intimate nature with the complainant; the existence of such a relationship shall be determined based on a consideration of the following factors: (a) the length of the relationship; (b) the type of relationship; (c) the frequency of interaction between the persons involved in the relationship
    - 2.1.3.4 Domestic violence includes felony or misdemeanor crimes of violence committed on the basis of sex by (a) a current or former spouse or intimate partner of the complainant; (b) a person with whom the complainant shares a child in common; (c) a person who is cohabitating with or has cohabitated with the complainant as a spouse or intimate partner; (d) a person similarly situated to a spouse of the complainant under the domestic of family violence laws of the jurisdiction receiving grant monies; or (e) any other person against an adult or youth complainant who is protected from that person's acts under the domestic or family violence laws of the jurisdiction

2.1.3.5 Stalking means engaging in a course of conduct on the basis of sex directed at complainant that would cause a reasonable person to (a) fear for their safety or the safety of others, or (b) suffer substantial emotional distress

2.1.3.6 “Sexual violence” includes physical sexual acts perpetrated against a person without the person’s affirmative consent as defined in California Education Code section 67386.

2.1.3.7 “Sexual battery” is defined as the intentional touching of another person’s intimate parts without consent, intentionally causing person to touch the intimate parts of another without consent, or using a person’s own intimate part to intentionally touch another person’s body without consent.

2.1.3.8 “Sexual exploitation” is defined as a person taking sexual advantage of another for the benefit of anyone other than that person without that person’s consent, including: prostituting of another person, trafficking of another person, recording images, video, or audio of another person’s sexual activity or intimate parts without that person’s consent, distributing images, video, or audio of another person’s sexual activity or intimate parts without that person’s consent, and viewing another person’s sexual activity or intimate parts without that person’s consent for the purpose of arousing or gratifying sexual desire.

### 3.0 Scope of the Education Program or Activity

- 3.1 An education program or activity includes locations, events, or circumstances over which the recipient exercised substantial control over both the respondent and the context in which the sexual harassment occurs, and also includes any building owned or controlled by a student organization that is officially recognized by a postsecondary institution.
- 3.2 At the time of filing a formal complaint, the complainant must be participating in or attempting to participate in the District’s education program or activities.
- 3.3 The District shall take reasonable steps to respond to sexual harassment complaints for incidents that occurred outside of the District’s educational program or activities, whether they are on or off campus, if there is any reason to believe that the incident could contribute to a hostile educational environment or otherwise interfere with a student’s access to education. These incidents would fall outside of Title IX and be governed by California law.

### 4.0 Reporting Misconduct

4.1 Any member of the LRCCD community who has suffered sexual harassment or sexual misconduct is encouraged to contact and/or file a complaint with the Title IX Coordinator at the district or college. If the Title IX Coordinator is involved in the alleged sexual misconduct, such complaint should be directed to the Chancellor or college president.

4.2 Upon receiving notice of a report or complaint, the Title IX Coordinator must promptly respond and acknowledge the complaint, provide the complainant supportive measures, advise the complainant of the Title IX grievance process, and advise the complainant that he/she/they may file a complaint with the U.S. Department of Education's Office for Civil Rights and/or local law enforcement.

## 5.0 Supportive Measures

5.1 Upon receipt of a report of alleged sexual harassment, the Title IX Coordinator must promptly contact the complainant to discuss the availability of supportive measures. Supportive measures are non-disciplinary, non-punitive individualized services offered as appropriate and reasonably available, without fee or charge to the complainant or respondent with or without the filing of a formal complaint. Such supportive measures should not unreasonably burden the other party, and may include, but are not limited to:

- 5.1.1 Counseling;
- 5.1.2 Increased security and monitoring of certain areas of campus;
- 5.1.3 Modifications of work or class schedules and locations;
- 5.1.4 Campus escort services;
- 5.1.5 Mutual restrictions on contact between complainant and respondent, including a written justification for the restriction. A mutual no-contact order shall not be automatically issued unless necessary to protect the noncomplaining party's safety or well-being;
- 5.1.6 Leaves of absence;
- 5.1.7 Emergency removal of a respondent from the District's educational program or activity, provided that the District perform an individualized safety and risk analysis, and determines that there is an immediate threat to the physical health or safety of any individual arising from the allegations. In such a situation, the respondent will be provided with written notice and an opportunity to challenge the decision immediately following the removal; or
- 5.1.8 Other appropriate supportive measures.

## 6.0 Formal Complaint Process

- 6.1 A formal complaint is a complaint filed and signed by a complainant or signed by the Title IX Coordinator alleging sexual harassment against a respondent and requesting that LRCCD investigate the allegations of sexual harassment. Formal complaints may be submitted via electronic submission so long as the complaint contains a digital signature indicating that the complainant is the person filing the formal complaint.
- 6.2 At the time of filing a formal complaint, the complainant must be participating in or attempting to participate in the education program or activity of LRCCD.
- 6.3 All formal complaints must allege facts with enough specificity to identify the respondent(s) and request that the college or district investigate the allegations. The complaint shall state any names (if known) and describe with reasonable specificity the incident(s) of alleged harassment, including the date and place of such incident(s). Complaints may also include attachments with any information that may be relevant to the investigation.
- 6.4 The district will apply a preponderance of the evidence standard (i.e. whether it is more likely than not) as its evidentiary standard for Title IX complaints and complaints that fall under district board policies. The preponderance of the evidence standard will be used to determine whether the allegations occurred and whether the respondent violated Title IX rules and/or LRCCD board policies prohibiting sexual harassment.
- 6.5 The parties may request to engage in an Informal Resolution Process any time after a formal complaint is filed and before a determination of responsibility is made after a live hearing. The Title IX Coordinator will assign an Informal Resolution facilitator who must be trained in the Title IX regulations.
- 6.6 The decision to use the informal resolution process should be made on a case-by-case basis and with the parties' voluntary consent. However, this process may not be used when a student complainant is alleging harassment by an employee.
- 6.7 If the Complainant and Respondent voluntarily consent to participate in the informal resolution process, the Informal Resolution Facilitator shall collect written consent to enter into informal resolution process and may subsequently make arrangements to commence this process. The Informal Resolution Facilitator shall provide the parties with a written notice disclosing:
- 6.7.1 The allegations;
  - 6.7.2 Requirements of the informal resolution process, including the circumstances under which it precludes the parties from resuming a formal complaint arising from the same allegations provided, however, that at any time prior to agreeing to a resolution, any party has the right to withdraw from the process and resume the grievance process with respect to the formal complaint; and

- 6.7.3 A description of any consequences resulting from participating in the informal resolution process, including that records will be maintained or could be shared.

## 7.0 Confidentiality

- 7.1 The identification of the complainant, respondent, reporting person(s), and witness(es) must remain confidential to the maximum extent possible, except for the disclosure of any information necessary to carry out the Title IX grievance process. The District shall consider any request to keep the process confidential, consistent with the Title IX regulations. All parties and witnesses will be notified to keep the information obtained within the process confidential at all times of the grievance process, except that the District cannot restrict the ability of the complainant or respondent from discussing the allegations under investigation or from gathering and presenting relevant evidence.
- 7.2 If a complainant requests confidentiality which could preclude a meaningful investigation or potential discipline, the District will generally grant the request unless disclosure of complainant's identity or an investigation is necessary. The District will consider the following factors when deciding whether disclosure of complainant's identity or an investigation is necessary:
- 7.2.1 There are multiple or prior reports of sexual misconduct against the respondent;
  - 7.2.2 The respondent allegedly used a weapon, physical restraints, or engaged in battery;
  - 7.2.3 The respondent is a faculty or staff member with oversight of students;
  - 7.2.4 There is a power imbalance between complainant and respondent;
  - 7.2.5 The complainant believes that the complainant will be less safe if the complainant's name is disclosed or an investigation is conducted; and
  - 7.2.6 The institution is able to conduct a thorough investigation in the absence of the complainant's cooperation.

## 8.0 Written Notice of Allegations and Investigation

- 8.1 Once a formal complaint is filed, the District must provide written notice of allegations and investigation to the parties. The Notice will include:

- 8.2 Sufficient details known at the time and with sufficient time to prepare a response before any initial interview, such as the identities of the parties involved in the incident, the conduct allegedly constituting sexual harassment, and the date and location of the alleged incident, if known;
- 8.3 A statement identifying that the recipient of the letter is a complainant or respondent to the complaint;
- 8.4 A statement that respondent is presumed not responsible for the alleged conduct until a determination regarding responsibility is made at the conclusion of the grievance process, and that adjudication of the alleged misconduct is not an adversarial process between the parties and witnesses.
- 8.5 The right to an advisor of complainant's or respondent's choice. The advisor may, but is not required to, be an attorney. If the either party does not have an advisor at the hearing, the District will provide an advisor at no cost during the hearing;
- 8.6 The prohibition against knowingly making false statements or submitting false information during the formal complaint process;
- 8.7 Any additional allegations that arise throughout the formal complaint process;
- 8.8 The prohibition of retaliation throughout the formal complaint process and afterwards.

## 9.0 Investigation Process

- 9.1 The investigator(s) has the burden to gather all evidence related to the complaint. The complainant and respondent have a right to gather and present relevant evidence to the investigator(s). The investigator(s) shall conduct an investigation of the complaint and review all relevant and directly related factual information gathered so the decision makers can determine whether the alleged conduct occurred and whether the conduct constitutes sexual harassment under Title IX.
- 9.2 The investigator(s) will be selected by the District's Title IX Coordinator and the investigator may not have any general or specific bias for or against complainant(s) or respondent(s), or any conflicts of interest or appearance of a conflict of interest. The investigator must be able to act independently and conduct an impartial and thorough investigation. The investigator must be adequately trained on the Title IX regulations and LRCCD's grievance process.
- 9.3 The investigator shall perform a trauma-informed and impartial investigation of the complaint and provide a final investigative report within 90 days of the Title IX Coordinator receiving the formal complaint. However, the District shall not unreasonably deny a student party's request for an extension of a deadline related to a complaint during periods of examinations or school closures. The District shall provide periodic status updates to complainant and respondent when available.

- 9.4 Before concluding the investigation, the investigator shall provide both parties an equal opportunity of at least 10 days to inspect and review any evidence obtained as part of the investigation that is directly related to the allegations raised in the formal complaint, including evidence that the District does not intend to rely on, as well as inculpatory or exculpatory evidence. During that time, the parties may submit a written response, which the investigator will consider before completing the final investigative report.
- 9.5 After creating a final investigative report that fairly summarizes the relevant evidence, the parties will have at least 10 days before any hearing to review the report and submit a written response or comment. The investigator(s) will communicate with the Title IX Coordinator on when and how the evidence and the final report will be disclosed to each party in accordance with the timing of the hearing.
- 9.6 Throughout this process, both parties and their advisors must receive written notification of interviews, changes or modifications to the process, meetings, hearings, appeals, and determinations.

## 10.0 Dismissal

- 10.1 Title IX Coordinators at the campuses must consult with the District Title IX Coordinator before dismissing any complaint. The Title IX Coordinator *must* dismiss the formal complaint if:
- 10.2 the allegations in the complaint would not fall under the definition of sexual harassment, even if proved
- 10.3 the alleged conduct in the complaint did not occur in the education program or activity, or
- 10.4 the alleged conduct in the complaint did not occur against a person in the United States.
- 10.5 The Title IX Coordinator *may* dismiss a complaint if:
- 10.6 the complainant notifies the Title IX Coordinator they would like to withdraw the formal complaint or allegations within the formal complaint,
- 10.7 the respondent is no longer enrolled or employed by the District, or
- 10.8 circumstances outside of LRCCD's control prohibit the gathering of sufficient evidence to reach a determination.
- 10.9 If a complaint is dismissed, the Title IX Coordinator must promptly provide simultaneous written notice of the dismissal to the complainant and respondent explaining the reasons for the dismissal and the right to appeal the dismissal within 15 days receipt of the notice.

## 11.0 Live Hearing Process

- 11.1 A live hearing shall take place after the final investigative report has been reviewed by the parties. The hearing shall be conducted by one or more hearing officers, (also known as the decision-maker or hearing panel.) The decision maker cannot be the Title IX Coordinator or the investigator and must be impartial, free of any specific or general bias, and not have a conflict of interest or an appearance of a conflict of interest. The hearing officers must also be trained on hearing procedures, weighing evidence, ruling on issues of relevance (including the relevancy of questions), and applying the preponderance of the evidence standard.
- 11.2 The Title IX Coordinator must provide each party with written notice of the expected date, time, location or manner in which the hearing will be conducted, the names of the hearing officers and participants, the purpose of the hearing, and a right to have an advisor present. The parties will also be notified that if they cannot obtain an advisor or if their advisor fails to attend the hearing, an advisor will be appointed to them at no cost. Each party will also be notified that they may submit questions before the hearing to be asked during the live hearing. The notice shall be sent to each party at the earliest time possible to ensure that each party has sufficient time to prepare to participate.
- 11.3 For the health and safety of the participants or at the district's discretion, the live hearing may take place virtually with technology enabling all participants to see and hear each other simultaneously. The hearing officers must be adequately trained in such technology in order to control the virtual meeting, to appropriately mute sound and control the video feed to prevent any interruptions, to prevent any direct cross-examination between the parties during the hearing, and to create separate virtual groups when necessary. For all live hearings, a record or transcript must be created and made available to all parties.
- 11.4 During the live hearing, the hearing officer must permit each party's advisor to ask the opposing party and witnesses any relevant question and allow for relevant follow-up questions. The respondent and complainant shall never have the ability to directly ask the other party any question at any time during the hearing. The hearing officer cannot draw an inference on the responsibility determination based solely on a party's or witness's absence from the live hearing or refusal to answer cross-examination or other questions.
- 11.5 When an investigator or hearing officer allows consideration of evidence about a dating relationship or prior consensual sexual relations between complainant and respondent, the mere fact of prior consensual sexual relations is not, by itself, sufficient to establish that the alleged conduct in the present matter was consensual. Before allowing any evidence of prior sexual relations or dating history, the investigator or hearing officer must provide a written explanation as to why the evidence is relevant.

- 11.6 Every question that is submitted prior to the hearing, including any additional questions presented during the hearing, will be subject to review by the hearing officers to determine if the question is relevant. If the hearing officers determine that a question is not relevant, the officers must explain the rationale behind such decision before prohibiting the advisor to ask the question.
- 11.7 At the conclusion of the live hearing, the hearing officers must make a determination regarding responsibility within 30 days. The written determination submitted to both parties must include:
- 11.7.1 Identification of the allegations potentially constituting sexual harassment as defined under the Title IX regulations;
  - 11.7.2 A description of the grievance process conducted;
  - 11.7.3 Findings of fact on each allegation;
  - 11.7.4 Conclusions on responsibility under the District's policy or code of conduct based on the findings of fact;
  - 11.7.5 Analysis and rationale for conclusions on responsibility;
  - 11.7.6 Disciplinary sanctions, if responsibility is found;
  - 11.7.7 Remedies; and
  - 11.7.8 Procedures and bases for an appeal by either party.

## 12.0 Disciplinary Action

- 12.1 If the hearing officers find that respondent sexually harassed complainant, the District shall take action against the respondent. Any action against the respondent shall be made promptly, effectively, and align with the severity of the offense. Any disciplinary sanction must be included in the hearing officer's determination to the respondent after the live hearing.

## 13.0 Remedial Measures

- 13.1 Remedial measures must be reasonably calculated to stop and/or address the prohibited conduct, prevent its recurrence, protect the complainant, and provide systemic remedies. These measures include, but are not limited to:
- 13.1.1 Providing an escort on LRCCD property to ensure safety;
  - 13.1.2 Ensuring the complainant and respondent do not have class together or work in the same area;
  - 13.1.3 Providing and enforcing a no-contact order;

13.1.4 Providing counseling, medical, and/or academic support services;

13.1.5 Removing the respondent from campus;

13.1.6 Arranging for the complainant to retake or withdraw from a course without penalty; and

13.1.7 Any other appropriate remedial measures.

13.2 A complainant shall not be required to enter a voluntary resolution agreement or any other form of resolution as a prerequisite to receiving remedial measures to safeguard the complainant's access to an educational program or activity.

## 14.0 Appeals

14.1 Both parties have an opportunity to appeal the written determination by the hearing officer within 15 days of receiving the written determination. The appeal shall be decided by an appeal decision-maker. This individual cannot be the Title IX Coordinator, investigator, or hearing officer on the same matter.

14.2 The appeal decision-maker shall notify all parties if an appeal is filed. The appeal decision maker shall determine if the appeal is appropriate. Appeals are appropriate if they are based on:

14.2.1 A procedural irregularity that affects the outcome of the formal complaint,

14.2.2 Any new evidence that was not reasonably available at the time the determination regarding responsibility or dismissal was made, that could affect the outcome of the matter; and

14.2.3 The Title IX Coordinator, the investigator(s) or the decision-makers had a conflict of interest or bias against complainants or respondents generally or the individual complainant or respondent that affected the outcome of the formal complaint.

14.3 Each party must be given a reasonable and equal opportunity to submit a written statement in support or challenging the outcome by the hearing officer. The appeal decision maker shall then review the original complaint, investigative report, written determination, and appeal before rendering a written decision within 45 days of receiving the appeal. Both parties will be notified of the appeal decision.

## 15.0 Retaliation

15.1 The District's board policies and interim Title IX grievance process prohibit retaliation of any kind. Retaliation includes any adverse action taken against a person participating in a protected activity, including reporting or disclosing any sexual misconduct and/or participation in the Title IX grievance process. Retaliation includes threats, intimidation, coercion, discrimination, reprisals, and/or adverse actions related to employment or education.

15.2 The District or any of its colleges may not intimidate, threaten, coerce, or discriminate against any individual for purposes of interfering with any right or privilege secured by Title IX or because the individual has made a report or complaint, testified, assisted, or participated in any investigation, hearing, etc.

15.3 Retaliation also includes charges against an individual for code of conduct violations that do not involve sex discrimination or sexual harassment, but arise out of the same facts or circumstances as a report or complaint of sex discrimination, for purposes of interfering with any right or privilege secured by Title IX. The exercise of rights under the First Amendment does not constitute retaliation. However, charging an individual with a code of conduct violation for making a materially false statement in bad faith in the course of the Title IX grievance proceeding does not constitute retaliation, provided that the determination on responsibility, alone, is not sufficient to conclude that any party made a materially false statement in bad faith.

15.4 Any complaints of retaliation must be filed with the Title IX Coordinator at the District or college.

## 16.0 Privileged or Confidential Reporting

16.1 A responsible employee of the District must report sexual misconduct to the Title IX Coordinator(s). Responsible employees include all employees of the District who (1) have a duty to report incidents of sexual misconduct and (2) that a student/employee reasonably believes has the duty listed above with the exclusion of professionally licensed medical counselors.

16.2 The District and colleges must keep confidential the identity of complainants, respondents, and witnesses, except as permitted by the Family Educational Rights and Privacy Act ("FERPA"), or as required by law or as necessary to carry out a Title IX investigation, hearing, or judicial proceeding.

## 17.0 Recordkeeping

17.1 The District will retain on file for a period of seven years after the conclusion of a case records of:

17.1.1 Each Title IX sexual harassment investigation, including the formal complaint, notice of allegations, investigation reports, dismissal letters, and/or any informal resolution and result;

17.1.2 The determination regarding responsibility and any audio or audiovisual recording or transcript of the live hearing;

17.1.3 The notice provided to the complainant and respondent of the determination and right to appeal from the result;

17.1.4 Any appeals and the final appeal decision;

- 17.1.5 All materials used to train Title IX Coordinators, investigators, decision-makers, and any person who facilitates an informal resolution process. Training materials shall include statistics on the prevalence of sexual harassment and sexual violence in the educational setting, and include data based on race, sexual orientation, disability, gender, and gender identity.
- 17.1.6 Any communications or documents that the District deems important to retain.

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LRCCD

Adm. Regulation Adopted: 4/14/2022  
Adm. Regulation Revised:  
Adm. Regulation Reviewed:  
Board Policy: P-2423; P-2424

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- 5.1.5 Mutual restrictions on contact between complainant and respondent, including a written justification for the restriction. A mutual no-contact order shall not be automatically issued unless necessary to protect the noncomplaining party's safety or well-being;
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- 5.1.7 Emergency removal of a respondent from the District's educational program or activity, provided that the District perform an individualized safety and risk analysis, and determines that there is an immediate threat to the physical health or safety of any individual arising from the allegations. In such a situation, the respondent will be provided with written notice and an opportunity to challenge the decision immediately following the removal; or
- 5.1.8 Other appropriate supportive measures.

## 6.0 Formal Complaint Process

- 6.1 A formal complaint is a complaint filed and signed by a complainant or signed by the Title IX Coordinator alleging sexual harassment against a respondent and requesting that LRCCD investigate the allegations of sexual harassment. Formal complaints may be submitted via electronic submission so long as the complaint contains a digital signature indicating that the complainant is the person filing the formal complaint.
- 6.2 At the time of filing a formal complaint, the complainant must be participating in or attempting to participate in the education program or activity of LRCCD.
- 6.3 All formal complaints must allege facts with enough specificity to identify the respondent(s) and request that the college or district investigate the allegations. The complaint shall state any names (if known) and describe with reasonable specificity the incident(s) of alleged harassment, including the date and place of such incident(s). Complaints may also include attachments with any information that may be relevant to the investigation.
- 6.4 The district will apply a preponderance of the evidence standard (i.e. whether it is more likely than not) as its evidentiary standard for Title IX complaints and complaints that fall under district board policies. The preponderance of the evidence standard will be used to determine whether the allegations occurred and whether the respondent violated Title IX rules and/or LRCCD board policies prohibiting sexual harassment.
- 6.5 The parties may request to engage in an Informal Resolution Process any time after a formal complaint is filed and before a determination of responsibility is made after a live hearing. The Title IX Coordinator will assign an Informal Resolution facilitator who must be trained in the Title IX regulations.
- 6.6 The decision to use the informal resolution process should be made on a case-by-case basis and with the parties' voluntary consent. However, this process may not be used when a student complainant is alleging harassment by an employee.
- 6.7 If the Complainant and Respondent voluntarily consent to participate in the informal resolution process, the Informal Resolution Facilitator shall collect written consent to enter into informal resolution process and may subsequently make arrangements to commence this process. The Informal Resolution Facilitator shall provide the parties with a written notice disclosing:
- 6.7.1 The allegations;
  - 6.7.2 Requirements of the informal resolution process, including the circumstances under which it precludes the parties from resuming a formal complaint arising from the same allegations provided, however, that at any time prior to agreeing to a resolution, any party has the right to withdraw from the process and resume the grievance process with respect to the formal complaint; and

- 6.7.3 A description of any consequences resulting from participating in the informal resolution process, including that records will be maintained or could be shared.

## 7.0 Confidentiality

- 7.1 The identification of the complainant, respondent, reporting person(s), and witness(es) must remain confidential to the maximum extent possible, except for the disclosure of any information necessary to carry out the Title IX grievance process. The District shall consider any request to keep the process confidential, consistent with the Title IX regulations. All parties and witnesses will be notified to keep the information obtained within the process confidential at all times of the grievance process, except that the District cannot restrict the ability of the complainant or respondent from discussing the allegations under investigation or from gathering and presenting relevant evidence.
- 7.2 If a complainant requests confidentiality which could preclude a meaningful investigation or potential discipline, the District will generally grant the request unless disclosure of complainant's identity or an investigation is necessary. The District will consider the following factors when deciding whether disclosure of complainant's identity or an investigation is necessary:
- 7.2.1 There are multiple or prior reports of sexual misconduct against the respondent;
  - 7.2.2 The respondent allegedly used a weapon, physical restraints, or engaged in battery;
  - 7.2.3 The respondent is a faculty or staff member with oversight of students;
  - 7.2.4 There is a power imbalance between complainant and respondent;
  - 7.2.5 The complainant believes that the complainant will be less safe if the complainant's name is disclosed or an investigation is conducted; and
  - 7.2.6 The institution is able to conduct a thorough investigation in the absence of the complainant's cooperation.

## 8.0 Written Notice of Allegations and Investigation

- 8.1 Once a formal complaint is filed, the District must provide written notice of allegations and investigation to the parties. The Notice will include:

- 8.2 Sufficient details known at the time and with sufficient time to prepare a response before any initial interview, such as the identities of the parties involved in the incident, the conduct allegedly constituting sexual harassment, and the date and location of the alleged incident, if known;
- 8.3 A statement identifying that the recipient of the letter is a complainant or respondent to the complaint;
- 8.4 A statement that respondent is presumed not responsible for the alleged conduct until a determination regarding responsibility is made at the conclusion of the grievance process, and that adjudication of the alleged misconduct is not an adversarial process between the parties and witnesses.
- 8.5 The right to an advisor of complainant's or respondent's choice. The advisor may, but is not required to, be an attorney. If the either party does not have an advisor at the hearing, the District will provide an advisor at no cost during the hearing;
- 8.6 The prohibition against knowingly making false statements or submitting false information during the formal complaint process;
- 8.7 Any additional allegations that arise throughout the formal complaint process;
- 8.8 The prohibition of retaliation throughout the formal complaint process and afterwards.

## 9.0 Investigation Process

- 9.1 The investigator(s) has the burden to gather all evidence related to the complaint. The complainant and respondent have a right to gather and present relevant evidence to the investigator(s). The investigator(s) shall conduct an investigation of the complaint and review all relevant and directly related factual information gathered so the decision makers can determine whether the alleged conduct occurred and whether the conduct constitutes sexual harassment under Title IX.
- 9.2 The investigator(s) will be selected by the District's Title IX Coordinator and the investigator may not have any general or specific bias for or against complainant(s) or respondent(s), or any conflicts of interest or appearance of a conflict of interest. The investigator must be able to act independently and conduct an impartial and thorough investigation. The investigator must be adequately trained on the Title IX regulations and LRCCD's grievance process.
- 9.3 The investigator shall perform a trauma-informed and impartial investigation of the complaint and provide a final investigative report within 90 days of the Title IX Coordinator receiving the formal complaint. However, the District shall not unreasonably deny a student party's request for an extension of a deadline related to a complaint during periods of examinations or school closures. The District shall provide periodic status updates to complainant and respondent when available.

- 9.4 Before concluding the investigation, the investigator shall provide both parties an equal opportunity of at least 10 days to inspect and review any evidence obtained as part of the investigation that is directly related to the allegations raised in the formal complaint, including evidence that the District does not intend to rely on, as well as inculpatory or exculpatory evidence. During that time, the parties may submit a written response, which the investigator will consider before completing the final investigative report.
- 9.5 After creating a final investigative report that fairly summarizes the relevant evidence, the parties will have at least 10 days before any hearing to review the report and submit a written response or comment. The investigator(s) will communicate with the Title IX Coordinator on when and how the evidence and the final report will be disclosed to each party in accordance with the timing of the hearing.
- 9.6 Throughout this process, both parties and their advisors must receive written notification of interviews, changes or modifications to the process, meetings, hearings, appeals, and determinations.

## 10.0 Dismissal

- 10.1 Title IX Coordinators at the campuses must consult with the District Title IX Coordinator before dismissing any complaint. The Title IX Coordinator *must* dismiss the formal complaint if:
- 10.2 the allegations in the complaint would not fall under the definition of sexual harassment, even if proved
- 10.3 the alleged conduct in the complaint did not occur in the education program or activity, or
- 10.4 the alleged conduct in the complaint did not occur against a person in the United States.
- 10.5 The Title IX Coordinator *may* dismiss a complaint if:
- 10.6 the complainant notifies the Title IX Coordinator they would like to withdraw the formal complaint or allegations within the formal complaint,
- 10.7 the respondent is no longer enrolled or employed by the District, or
- 10.8 circumstances outside of LRCCD's control prohibit the gathering of sufficient evidence to reach a determination.
- 10.9 If a complaint is dismissed, the Title IX Coordinator must promptly provide simultaneous written notice of the dismissal to the complainant and respondent explaining the reasons for the dismissal and the right to appeal the dismissal within 15 days receipt of the notice.

## 11.0 Live Hearing Process

- 11.1 A live hearing shall take place after the final investigative report has been reviewed by the parties. The hearing shall be conducted by one or more hearing officers, (also known as the decision-maker or hearing panel.) The decision maker cannot be the Title IX Coordinator or the investigator and must be impartial, free of any specific or general bias, and not have a conflict of interest or an appearance of a conflict of interest. The hearing officers must also be trained on hearing procedures, weighing evidence, ruling on issues of relevance (including the relevancy of questions), and applying the preponderance of the evidence standard.
- 11.2 The Title IX Coordinator must provide each party with written notice of the expected date, time, location or manner in which the hearing will be conducted, the names of the hearing officers and participants, the purpose of the hearing, and a right to have an advisor present. The parties will also be notified that if they cannot obtain an advisor or if their advisor fails to attend the hearing, an advisor will be appointed to them at no cost. Each party will also be notified that they may submit questions before the hearing to be asked during the live hearing. The notice shall be sent to each party at the earliest time possible to ensure that each party has sufficient time to prepare to participate.
- 11.3 For the health and safety of the participants or at the district's discretion, the live hearing may take place virtually with technology enabling all participants to see and hear each other simultaneously. The hearing officers must be adequately trained in such technology in order to control the virtual meeting, to appropriately mute sound and control the video feed to prevent any interruptions, to prevent any direct cross-examination between the parties during the hearing, and to create separate virtual groups when necessary. For all live hearings, a record or transcript must be created and made available to all parties.
- 11.4 During the live hearing, the hearing officer must permit each party's advisor to ask the opposing party and witnesses any relevant question and allow for relevant follow-up questions. The respondent and complainant shall never have the ability to directly ask the other party any question at any time during the hearing. The hearing officer cannot draw an inference on the responsibility determination based solely on a party's or witness's absence from the live hearing or refusal to answer cross-examination or other questions.
- 11.5 When an investigator or hearing officer allows consideration of evidence about a dating relationship or prior consensual sexual relations between complainant and respondent, the mere fact of prior consensual sexual relations is not, by itself, sufficient to establish that the alleged conduct in the present matter was consensual. Before allowing any evidence of prior sexual relations or dating history, the investigator or hearing officer must provide a written explanation as to why the evidence is relevant.

- 11.6 Every question that is submitted prior to the hearing, including any additional questions presented during the hearing, will be subject to review by the hearing officers to determine if the question is relevant. If the hearing officers determine that a question is not relevant, the officers must explain the rationale behind such decision before prohibiting the advisor to ask the question.
- 11.7 At the conclusion of the live hearing, the hearing officers must make a determination regarding responsibility within 30 days. The written determination submitted to both parties must include:
- 11.7.1 Identification of the allegations potentially constituting sexual harassment as defined under the Title IX regulations;
  - 11.7.2 A description of the grievance process conducted;
  - 11.7.3 Findings of fact on each allegation;
  - 11.7.4 Conclusions on responsibility under the District's policy or code of conduct based on the findings of fact;
  - 11.7.5 Analysis and rationale for conclusions on responsibility;
  - 11.7.6 Disciplinary sanctions, if responsibility is found;
  - 11.7.7 Remedies; and
  - 11.7.8 Procedures and bases for an appeal by either party.

## 12.0 Disciplinary Action

- 12.1 If the hearing officers find that respondent sexually harassed complainant, the District shall take action against the respondent. Any action against the respondent shall be made promptly, effectively, and align with the severity of the offense. Any disciplinary sanction must be included in the hearing officer's determination to the respondent after the live hearing.

## 13.0 Remedial Measures

- 13.1 Remedial measures must be reasonably calculated to stop and/or address the prohibited conduct, prevent its recurrence, protect the complainant, and provide systemic remedies. These measures include, but are not limited to:
- 13.1.1 Providing an escort on LRCCD property to ensure safety;
  - 13.1.2 Ensuring the complainant and respondent do not have class together or work in the same area;
  - 13.1.3 Providing and enforcing a no-contact order;

- 13.1.4 Providing counseling, medical, and/or academic support services;
- 13.1.5 Removing the respondent from campus;
- 13.1.6 Arranging for the complainant to retake or withdraw from a course without penalty; and
- 13.1.7 Any other appropriate remedial measures.

13.2 A complainant shall not be required to enter a voluntary resolution agreement or any other form of resolution as a prerequisite to receiving remedial measures to safeguard the complainant's access to an educational program or activity.

## 14.0 Appeals

14.1 Both parties have an opportunity to appeal the written determination by the hearing officer within 15 days of receiving the written determination. The appeal shall be decided by an appeal decision-maker. This individual cannot be the Title IX Coordinator, investigator, or hearing officer on the same matter.

14.2 The appeal decision-maker shall notify all parties if an appeal is filed. The appeal decision maker shall determine if the appeal is appropriate. Appeals are appropriate if they are based on:

- 14.2.1 A procedural irregularity that affects the outcome of the formal complaint,
- 14.2.2 Any new evidence that was not reasonably available at the time the determination regarding responsibility or dismissal was made, that could affect the outcome of the matter; and
- 14.2.3 The Title IX Coordinator, the investigator(s) or the decision-makers had a conflict of interest or bias against complainants or respondents generally or the individual complainant or respondent that affected the outcome of the formal complaint.

14.3 Each party must be given a reasonable and equal opportunity to submit a written statement in support or challenging the outcome by the hearing officer. The appeal decision maker shall then review the original complaint, investigative report, written determination, and appeal before rendering a written decision within 45 days of receiving the appeal. Both parties will be notified of the appeal decision.

## 15.0 Retaliation

15.1 The District's board policies and interim Title IX grievance process prohibit retaliation of any kind. Retaliation includes any adverse action taken against a person participating in a protected activity, including reporting or disclosing any sexual misconduct and/or participation in the Title IX grievance process. Retaliation includes threats, intimidation, coercion, discrimination, reprisals, and/or adverse actions related to employment or education.

15.2 The District or any of its colleges may not intimidate, threaten, coerce, or discriminate against any individual for purposes of interfering with any right or privilege secured by Title IX or because the individual has made a report or complaint, testified, assisted, or participated in any investigation, hearing, etc.

15.3 Retaliation also includes charges against an individual for code of conduct violations that do not involve sex discrimination or sexual harassment, but arise out of the same facts or circumstances as a report or complaint of sex discrimination, for purposes of interfering with any right or privilege secured by Title IX. The exercise of rights under the First Amendment does not constitute retaliation. However, charging an individual with a code of conduct violation for making a materially false statement in bad faith in the course of the Title IX grievance proceeding does not constitute retaliation, provided that the determination on responsibility, alone, is not sufficient to conclude that any party made a materially false statement in bad faith.

15.4 Any complaints of retaliation must be filed with the Title IX Coordinator at the District or college.

## 16.0 Privileged or Confidential Reporting

16.1 A responsible employee of the District must report sexual misconduct to the Title IX Coordinator(s). Responsible employees include all employees of the District who (1) have a duty to report incidents of sexual misconduct and (2) that a student/employee reasonably believes has the duty listed above with the exclusion of professionally licensed medical counselors.

16.2 The District and colleges must keep confidential the identity of complainants, respondents, and witnesses, except as permitted by the Family Educational Rights and Privacy Act ("FERPA"), or as required by law or as necessary to carry out a Title IX investigation, hearing, or judicial proceeding.

## 17.0 Recordkeeping

17.1 The District will retain on file for a period of seven years after the conclusion of a case records of:

17.1.1 Each Title IX sexual harassment investigation, including the formal complaint, notice of allegations, investigation reports, dismissal letters, and/or any informal resolution and result;

17.1.2 The determination regarding responsibility and any audio or audiovisual recording or transcript of the live hearing;

17.1.3 The notice provided to the complainant and respondent of the determination and right to appeal from the result;

17.1.4 Any appeals and the final appeal decision;

- 17.1.5 All materials used to train Title IX Coordinators, investigators, decision-makers, and any person who facilitates an informal resolution process. Training materials shall include statistics on the prevalence of sexual harassment and sexual violence in the educational setting, and include data based on race, sexual orientation, disability, gender, and gender identity.
- 17.1.6 Any communications or documents that the District deems important to retain.

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LRCCD

Adm. Regulation Adopted: 4/14/2022  
Adm. Regulation Revised:  
Adm. Regulation Reviewed:  
Board Policy:

## 1.0 Intent

- 1.1 This policy governs how complainants may report sexual harassment complaints and how the district will handle the grievance process to provide prompt and equitable resolution of all sexual harassment complaints under Title IX and the California Education Code.
- 1.2 For student complaints, the district's primary concern shall be student safety and any investigation or disciplinary measure must be consistent with board policy, regulation, and the student code of conduct in conjunction with California law.
- 1.3 Title IX complaints will be handled by designated Title IX individuals at the district and colleges. Los Rios has a Title IX Coordinator at the district office and each of its four colleges. During the Title IX grievance process, responsible Title IX individuals may be asked to participate in the grievance process at a different district college or location if a conflict or need arises.
- 1.4 Responsible Title IX individuals include:
  - 1.1.1 Title IX Coordinators - oversees Title IX compliance, intake meetings, accepts the formal complaint, implements supportive measures, considers dismissals; coordinates the grievance process;
  - 1.1.2 Investigator(s) - investigates the formal complaint and provides an investigative report of the evidence for the complainant, respondent and/or advisors (if any) to review; prepares a final investigative report;
  - 1.1.3 Hearing Officers (aka Decision Makers) - conducts the hearing, facilitates direct examination and cross-examination, makes determinations on questions to be asked, and renders final written decision with findings, policy determination(s), and rationale; where applicable implements or recommends sanctions and remedies;
  - 1.1.4 Advisors – individuals who act on behalf of the complainant and respondent during the live hearing;
  - 1.1.5 Appeal Decision Maker - handles appeal requests and renders a written decision on appeals;
  - 1.1.6 Informal Resolution Facilitator – handles efforts to informally resolve formal complaints
- 1.5 The Title IX Coordinators, investigator(s), hearing officer, advisors, appeal decision maker, and informal resolution facilitator shall receive training on the Title IX regulations, definition of sexual harassment, the scope of the education program or activity, how to conduct an investigation and grievance process, and how to serve impartially by avoiding prejudgment of facts, conflicts of interest, trauma-informed practices, and specific or general biases.

- 1.6 Any complaints of sexual harassment that fall outside the scope of Title IX will be handled consistent with applicable laws and regulations.

## 2.0 Definitions

- 2.1 Sexual harassment is defined as conduct on the basis of sex that satisfies one or more of the following:
- 2.1.1 An employee of the District conditioning the provision of an aid, benefit, or service of the District on an individual's participation in unwelcome sexual conduct; or
  - 2.1.2 Unwelcome conduct determined by a reasonable person to be so severe, pervasive and objectively offensive that it effectively denies a person equal access to the District's education program or activity; or
  - 2.1.3 Sexual assault as defined in 20 U.S.C. 1092(f)(6)(A)(v) "dating violence" as defined in 34 U.S.C. 1229(a)(10) "domestic violence" as defined in 34 U.S.C. 12291(a)(8) or "stalking" as defined in 34 U.S.C. 12291(a)(30)
    - 2.1.3.1 Forcible sexual assault includes any sexual act directed against a person, forcibly, against that person's will, or without consent; includes rape, sodomy, sexual assault with an object, and fondling
    - 2.1.3.2 Non-forcible sexual assault includes offenses that do not involve force where the person is incapable of giving consent, including statutory rape and incest
    - 2.1.3.3 Dating violence includes violence on the basis of sex committed by someone who has been in a social relationship of a romantic or intimate nature with the complainant; the existence of such a relationship shall be determined based on a consideration of the following factors: (a) the length of the relationship; (b) the type of relationship; (c) the frequency of interaction between the persons involved in the relationship
    - 2.1.3.4 Domestic violence includes felony or misdemeanor crimes of violence committed on the basis of sex by (a) a current or former spouse or intimate partner of the complainant; (b) a person with whom the complainant shares a child in common; (c) a person who is cohabitating with or has cohabitated with the complainant as a spouse or intimate partner; (d) a person similarly situated to a spouse of the complainant under the domestic of family violence laws of the jurisdiction receiving grant monies; or (e) any other person against an adult or youth complainant who is protected from that person's acts under the domestic or family violence laws of the jurisdiction

- 2.1.3.5 Stalking means engaging in a course of conduct on the basis of sex directed at complainant that would cause a reasonable person to (a) fear for their safety or the safety of others, or (b) suffer substantial emotional distress
- 2.1.3.6 “Sexual violence” includes physical sexual acts perpetrated against a person without the person’s affirmative consent as defined in California Education Code section 67386.
- 2.1.3.7 “Sexual battery” is defined as the intentional touching of another person’s intimate parts without consent, intentionally causing person to touch the intimate parts of another without consent, or using a person’s own intimate part to intentionally touch another person’s body without consent.
- 2.1.3.8 “Sexual exploitation” is defined as a person taking sexual advantage of another for the benefit of anyone other than that person without that person’s consent, including: prostituting of another person, trafficking of another person, recording images, video, or audio of another person’s sexual activity or intimate parts without that person’s consent, distributing images, video, or audio of another person’s sexual activity or intimate parts without that person’s consent, and viewing another person’s sexual activity or intimate parts without that person’s consent for the purpose of arousing or gratifying sexual desire.

### 3.0 Scope of the Education Program or Activity

- 3.1 An education program or activity includes locations, events, or circumstances over which the recipient exercised substantial control over both the respondent and the context in which the sexual harassment occurs, and also includes any building owned or controlled by a student organization that is officially recognized by a postsecondary institution.
- 3.2 At the time of filing a formal complaint, the complainant must be participating in or attempting to participate in the District’s education program or activities.
- 3.3 The District shall take reasonable steps to respond to sexual harassment complaints for incidents that occurred outside of the District’s educational program or activities, whether they are on or off campus, if there is any reason to believe that the incident could contribute to a hostile educational environment or otherwise interfere with a student’s access to education. These incidents would fall outside of Title IX and be governed by California law.

### 4.0 Reporting Misconduct

4.1 Any member of the LRCCD community who has suffered sexual harassment or sexual misconduct is encouraged to contact and/or file a complaint with the Title IX Coordinator at the district or college. If the Title IX Coordinator is involved in the alleged sexual misconduct, such complaint should be directed to the Chancellor or college president.

4.2 Upon receiving notice of a report or complaint, the Title IX Coordinator must promptly respond and acknowledge the complaint, provide the complainant supportive measures, advise the complainant of the Title IX grievance process, and advise the complainant that he/she/they may file a complaint with the U.S. Department of Education's Office for Civil Rights and/or local law enforcement.

## 5.0 Supportive Measures

5.1 Upon receipt of a report of alleged sexual harassment, the Title IX Coordinator must promptly contact the complainant to discuss the availability of supportive measures. Supportive measures are non-disciplinary, non-punitive individualized services offered as appropriate and reasonably available, without fee or charge to the complainant or respondent with or without the filing of a formal complaint. Such supportive measures should not unreasonably burden the other party, and may include, but are not limited to:

- 5.1.1 Counseling;
- 5.1.2 Increased security and monitoring of certain areas of campus;
- 5.1.3 Modifications of work or class schedules and locations;
- 5.1.4 Campus escort services;
- 5.1.5 Mutual restrictions on contact between complainant and respondent, including a written justification for the restriction. A mutual no-contact order shall not be automatically issued unless necessary to protect the noncomplaining party's safety or well-being;
- 5.1.6 Leaves of absence;
- 5.1.7 Emergency removal of a respondent from the District's educational program or activity, provided that the District perform an individualized safety and risk analysis, and determines that there is an immediate threat to the physical health or safety of any individual arising from the allegations. In such a situation, the respondent will be provided with written notice and an opportunity to challenge the decision immediately following the removal; or
- 5.1.8 Other appropriate supportive measures.

## 6.0 Formal Complaint Process

- 6.1 A formal complaint is a complaint filed and signed by a complainant or signed by the Title IX Coordinator alleging sexual harassment against a respondent and requesting that LRCCD investigate the allegations of sexual harassment. Formal complaints may be submitted via electronic submission so long as the complaint contains a digital signature indicating that the complainant is the person filing the formal complaint.
- 6.2 At the time of filing a formal complaint, the complainant must be participating in or attempting to participate in the education program or activity of LRCCD.
- 6.3 All formal complaints must allege facts with enough specificity to identify the respondent(s) and request that the college or district investigate the allegations. The complaint shall state any names (if known) and describe with reasonable specificity the incident(s) of alleged harassment, including the date and place of such incident(s). Complaints may also include attachments with any information that may be relevant to the investigation.
- 6.4 The district will apply a preponderance of the evidence standard (i.e. whether it is more likely than not) as its evidentiary standard for Title IX complaints and complaints that fall under district board policies. The preponderance of the evidence standard will be used to determine whether the allegations occurred and whether the respondent violated Title IX rules and/or LRCCD board policies prohibiting sexual harassment.
- 6.5 The parties may request to engage in an Informal Resolution Process any time after a formal complaint is filed and before a determination of responsibility is made after a live hearing. The Title IX Coordinator will assign an Informal Resolution facilitator who must be trained in the Title IX regulations.
- 6.6 The decision to use the informal resolution process should be made on a case-by-case basis and with the parties' voluntary consent. However, this process may not be used when a student complainant is alleging harassment by an employee.
- 6.7 If the Complainant and Respondent voluntarily consent to participate in the informal resolution process, the Informal Resolution Facilitator shall collect written consent to enter into informal resolution process and may subsequently make arrangements to commence this process. The Informal Resolution Facilitator shall provide the parties with a written notice disclosing:
- 6.7.1 The allegations;
  - 6.7.2 Requirements of the informal resolution process, including the circumstances under which it precludes the parties from resuming a formal complaint arising from the same allegations provided, however, that at any time prior to agreeing to a resolution, any party has the right to withdraw from the process and resume the grievance process with respect to the formal complaint; and

- 6.7.3 A description of any consequences resulting from participating in the informal resolution process, including that records will be maintained or could be shared.

## 7.0 Confidentiality

- 7.1 The identification of the complainant, respondent, reporting person(s), and witness(es) must remain confidential to the maximum extent possible, except for the disclosure of any information necessary to carry out the Title IX grievance process. The District shall consider any request to keep the process confidential, consistent with the Title IX regulations. All parties and witnesses will be notified to keep the information obtained within the process confidential at all times of the grievance process, except that the District cannot restrict the ability of the complainant or respondent from discussing the allegations under investigation or from gathering and presenting relevant evidence.
- 7.2 If a complainant requests confidentiality which could preclude a meaningful investigation or potential discipline, the District will generally grant the request unless disclosure of complainant's identity or an investigation is necessary. The District will consider the following factors when deciding whether disclosure of complainant's identity or an investigation is necessary:
- 7.2.1 There are multiple or prior reports of sexual misconduct against the respondent;
  - 7.2.2 The respondent allegedly used a weapon, physical restraints, or engaged in battery;
  - 7.2.3 The respondent is a faculty or staff member with oversight of students;
  - 7.2.4 There is a power imbalance between complainant and respondent;
  - 7.2.5 The complainant believes that the complainant will be less safe if the complainant's name is disclosed or an investigation is conducted; and
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- 8.1 Once a formal complaint is filed, the District must provide written notice of allegations and investigation to the parties. The Notice will include:

- 8.2 Sufficient details known at the time and with sufficient time to prepare a response before any initial interview, such as the identities of the parties involved in the incident, the conduct allegedly constituting sexual harassment, and the date and location of the alleged incident, if known;
- 8.3 A statement identifying that the recipient of the letter is a complainant or respondent to the complaint;
- 8.4 A statement that respondent is presumed not responsible for the alleged conduct until a determination regarding responsibility is made at the conclusion of the grievance process, and that adjudication of the alleged misconduct is not an adversarial process between the parties and witnesses.
- 8.5 The right to an advisor of complainant's or respondent's choice. The advisor may, but is not required to, be an attorney. If the either party does not have an advisor at the hearing, the District will provide an advisor at no cost during the hearing;
- 8.6 The prohibition against knowingly making false statements or submitting false information during the formal complaint process;
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## 9.0 Investigation Process

- 9.1 The investigator(s) has the burden to gather all evidence related to the complaint. The complainant and respondent have a right to gather and present relevant evidence to the investigator(s). The investigator(s) shall conduct an investigation of the complaint and review all relevant and directly related factual information gathered so the decision makers can determine whether the alleged conduct occurred and whether the conduct constitutes sexual harassment under Title IX.
- 9.2 The investigator(s) will be selected by the District's Title IX Coordinator and the investigator may not have any general or specific bias for or against complainant(s) or respondent(s), or any conflicts of interest or appearance of a conflict of interest. The investigator must be able to act independently and conduct an impartial and thorough investigation. The investigator must be adequately trained on the Title IX regulations and LRCCD's grievance process.
- 9.3 The investigator shall perform a trauma-informed and impartial investigation of the complaint and provide a final investigative report within 90 days of the Title IX Coordinator receiving the formal complaint. However, the District shall not unreasonably deny a student party's request for an extension of a deadline related to a complaint during periods of examinations or school closures. The District shall provide periodic status updates to complainant and respondent when available.

- 9.4 Before concluding the investigation, the investigator shall provide both parties an equal opportunity of at least 10 days to inspect and review any evidence obtained as part of the investigation that is directly related to the allegations raised in the formal complaint, including evidence that the District does not intend to rely on, as well as inculpatory or exculpatory evidence. During that time, the parties may submit a written response, which the investigator will consider before completing the final investigative report.
- 9.5 After creating a final investigative report that fairly summarizes the relevant evidence, the parties will have at least 10 days before any hearing to review the report and submit a written response or comment. The investigator(s) will communicate with the Title IX Coordinator on when and how the evidence and the final report will be disclosed to each party in accordance with the timing of the hearing.
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- 10.2 the allegations in the complaint would not fall under the definition of sexual harassment, even if proved
- 10.3 the alleged conduct in the complaint did not occur in the education program or activity, or
- 10.4 the alleged conduct in the complaint did not occur against a person in the United States.
- 10.5 The Title IX Coordinator *may* dismiss a complaint if:
- 10.6 the complainant notifies the Title IX Coordinator they would like to withdraw the formal complaint or allegations within the formal complaint,
- 10.7 the respondent is no longer enrolled or employed by the District, or
- 10.8 circumstances outside of LRCCD's control prohibit the gathering of sufficient evidence to reach a determination.
- 10.9 If a complaint is dismissed, the Title IX Coordinator must promptly provide simultaneous written notice of the dismissal to the complainant and respondent explaining the reasons for the dismissal and the right to appeal the dismissal within 15 days receipt of the notice.

## 11.0 Live Hearing Process

- 11.1 A live hearing shall take place after the final investigative report has been reviewed by the parties. The hearing shall be conducted by one or more hearing officers, (also known as the decision-maker or hearing panel.) The decision maker cannot be the Title IX Coordinator or the investigator and must be impartial, free of any specific or general bias, and not have a conflict of interest or an appearance of a conflict of interest. The hearing officers must also be trained on hearing procedures, weighing evidence, ruling on issues of relevance (including the relevancy of questions), and applying the preponderance of the evidence standard.
- 11.2 The Title IX Coordinator must provide each party with written notice of the expected date, time, location or manner in which the hearing will be conducted, the names of the hearing officers and participants, the purpose of the hearing, and a right to have an advisor present. The parties will also be notified that if they cannot obtain an advisor or if their advisor fails to attend the hearing, an advisor will be appointed to them at no cost. Each party will also be notified that they may submit questions before the hearing to be asked during the live hearing. The notice shall be sent to each party at the earliest time possible to ensure that each party has sufficient time to prepare to participate.
- 11.3 For the health and safety of the participants or at the district's discretion, the live hearing may take place virtually with technology enabling all participants to see and hear each other simultaneously. The hearing officers must be adequately trained in such technology in order to control the virtual meeting, to appropriately mute sound and control the video feed to prevent any interruptions, to prevent any direct cross-examination between the parties during the hearing, and to create separate virtual groups when necessary. For all live hearings, a record or transcript must be created and made available to all parties.
- 11.4 During the live hearing, the hearing officer must permit each party's advisor to ask the opposing party and witnesses any relevant question and allow for relevant follow-up questions. The respondent and complainant shall never have the ability to directly ask the other party any question at any time during the hearing. The hearing officer cannot draw an inference on the responsibility determination based solely on a party's or witness's absence from the live hearing or refusal to answer cross-examination or other questions.
- 11.5 When an investigator or hearing officer allows consideration of evidence about a dating relationship or prior consensual sexual relations between complainant and respondent, the mere fact of prior consensual sexual relations is not, by itself, sufficient to establish that the alleged conduct in the present matter was consensual. Before allowing any evidence of prior sexual relations or dating history, the investigator or hearing officer must provide a written explanation as to why the evidence is relevant.

- 11.6 Every question that is submitted prior to the hearing, including any additional questions presented during the hearing, will be subject to review by the hearing officers to determine if the question is relevant. If the hearing officers determine that a question is not relevant, the officers must explain the rationale behind such decision before prohibiting the advisor to ask the question.
- 11.7 At the conclusion of the live hearing, the hearing officers must make a determination regarding responsibility within 30 days. The written determination submitted to both parties must include:
- 11.7.1 Identification of the allegations potentially constituting sexual harassment as defined under the Title IX regulations;
  - 11.7.2 A description of the grievance process conducted;
  - 11.7.3 Findings of fact on each allegation;
  - 11.7.4 Conclusions on responsibility under the District's policy or code of conduct based on the findings of fact;
  - 11.7.5 Analysis and rationale for conclusions on responsibility;
  - 11.7.6 Disciplinary sanctions, if responsibility is found;
  - 11.7.7 Remedies; and
  - 11.7.8 Procedures and bases for an appeal by either party.

## 12.0 Disciplinary Action

- 12.1 If the hearing officers find that respondent sexually harassed complainant, the District shall take action against the respondent. Any action against the respondent shall be made promptly, effectively, and align with the severity of the offense. Any disciplinary sanction must be included in the hearing officer's determination to the respondent after the live hearing.

## 13.0 Remedial Measures

- 13.1 Remedial measures must be reasonably calculated to stop and/or address the prohibited conduct, prevent its recurrence, protect the complainant, and provide systemic remedies. These measures include, but are not limited to:
- 13.1.1 Providing an escort on LRCCD property to ensure safety;
  - 13.1.2 Ensuring the complainant and respondent do not have class together or work in the same area;
  - 13.1.3 Providing and enforcing a no-contact order;

- 13.1.4 Providing counseling, medical, and/or academic support services;
- 13.1.5 Removing the respondent from campus;
- 13.1.6 Arranging for the complainant to retake or withdraw from a course without penalty; and
- 13.1.7 Any other appropriate remedial measures.

13.2 A complainant shall not be required to enter a voluntary resolution agreement or any other form of resolution as a prerequisite to receiving remedial measures to safeguard the complainant's access to an educational program or activity.

## 14.0 Appeals

14.1 Both parties have an opportunity to appeal the written determination by the hearing officer within 15 days of receiving the written determination. The appeal shall be decided by an appeal decision-maker. This individual cannot be the Title IX Coordinator, investigator, or hearing officer on the same matter.

14.2 The appeal decision-maker shall notify all parties if an appeal is filed. The appeal decision maker shall determine if the appeal is appropriate. Appeals are appropriate if they are based on:

- 14.2.1 A procedural irregularity that affects the outcome of the formal complaint,
- 14.2.2 Any new evidence that was not reasonably available at the time the determination regarding responsibility or dismissal was made, that could affect the outcome of the matter; and
- 14.2.3 The Title IX Coordinator, the investigator(s) or the decision-makers had a conflict of interest or bias against complainants or respondents generally or the individual complainant or respondent that affected the outcome of the formal complaint.

14.3 Each party must be given a reasonable and equal opportunity to submit a written statement in support or challenging the outcome by the hearing officer. The appeal decision maker shall then review the original complaint, investigative report, written determination, and appeal before rendering a written decision within 45 days of receiving the appeal. Both parties will be notified of the appeal decision.

## 15.0 Retaliation

15.1 The District's board policies and interim Title IX grievance process prohibit retaliation of any kind. Retaliation includes any adverse action taken against a person participating in a protected activity, including reporting or disclosing any sexual misconduct and/or participation in the Title IX grievance process. Retaliation includes threats, intimidation, coercion, discrimination, reprisals, and/or adverse actions related to employment or education.

15.2 The District or any of its colleges may not intimidate, threaten, coerce, or discriminate against any individual for purposes of interfering with any right or privilege secured by Title IX or because the individual has made a report or complaint, testified, assisted, or participated in any investigation, hearing, etc.

15.3 Retaliation also includes charges against an individual for code of conduct violations that do not involve sex discrimination or sexual harassment, but arise out of the same facts or circumstances as a report or complaint of sex discrimination, for purposes of interfering with any right or privilege secured by Title IX. The exercise of rights under the First Amendment does not constitute retaliation. However, charging an individual with a code of conduct violation for making a materially false statement in bad faith in the course of the Title IX grievance proceeding does not constitute retaliation, provided that the determination on responsibility, alone, is not sufficient to conclude that any party made a materially false statement in bad faith.

15.4 Any complaints of retaliation must be filed with the Title IX Coordinator at the District or college.

## 16.0 Privileged or Confidential Reporting

16.1 A responsible employee of the District must report sexual misconduct to the Title IX Coordinator(s). Responsible employees include all employees of the District who (1) have a duty to report incidents of sexual misconduct and (2) that a student/employee reasonably believes has the duty listed above with the exclusion of professionally licensed medical counselors.

16.2 The District and colleges must keep confidential the identity of complainants, respondents, and witnesses, except as permitted by the Family Educational Rights and Privacy Act ("FERPA"), or as required by law or as necessary to carry out a Title IX investigation, hearing, or judicial proceeding.

## 17.0 Recordkeeping

17.1 The District will retain on file for a period of seven years after the conclusion of a case records of:

17.1.1 Each Title IX sexual harassment investigation, including the formal complaint, notice of allegations, investigation reports, dismissal letters, and/or any informal resolution and result;

17.1.2 The determination regarding responsibility and any audio or audiovisual recording or transcript of the live hearing;

17.1.3 The notice provided to the complainant and respondent of the determination and right to appeal from the result;

17.1.4 Any appeals and the final appeal decision;

- 17.1.5 All materials used to train Title IX Coordinators, investigators, decision-makers, and any person who facilitates an informal resolution process. Training materials shall include statistics on the prevalence of sexual harassment and sexual violence in the educational setting, and include data based on race, sexual orientation, disability, gender, and gender identity.
- 17.1.6 Any communications or documents that the District deems important to retain.

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LRCCD

Adm. Regulation Adopted: 4/14/22  
Adm. Regulation Revised:  
Adm. Regulation Reviewed:  
Board Policy:

## 1.0 Intent

- 1.1 This policy governs how complainants may report sexual harassment complaints and how the district will handle the grievance process to provide prompt and equitable resolution of all sexual harassment complaints under Title IX and the California Education Code.
- 1.2 For student complaints, the district's primary concern shall be student safety and any investigation or disciplinary measure must be consistent with board policy, regulation, and the student code of conduct in conjunction with California law.
- 1.3 Title IX complaints will be handled by designated Title IX individuals at the district and colleges. Los Rios has a Title IX Coordinator at the district office and each of its four colleges. During the Title IX grievance process, responsible Title IX individuals may be asked to participate in the grievance process at a different district college or location if a conflict or need arises.
- 1.4 Responsible Title IX individuals include:
  - 1.1.1 Title IX Coordinators - oversees Title IX compliance, intake meetings, accepts the formal complaint, implements supportive measures, considers dismissals; coordinates the grievance process;
  - 1.1.2 Investigator(s) - investigates the formal complaint and provides an investigative report of the evidence for the complainant, respondent and/or advisors (if any) to review; prepares a final investigative report;
  - 1.1.3 Hearing Officers (aka Decision Makers) - conducts the hearing, facilitates direct examination and cross-examination, makes determinations on questions to be asked, and renders final written decision with findings, policy determination(s), and rationale; where applicable implements or recommends sanctions and remedies;
  - 1.1.4 Advisors – individuals who act on behalf of the complainant and respondent during the live hearing;
  - 1.1.5 Appeal Decision Maker - handles appeal requests and renders a written decision on appeals;
  - 1.1.6 Informal Resolution Facilitator – handles efforts to informally resolve formal complaints
- 1.5 The Title IX Coordinators, investigator(s), hearing officer, advisors, appeal decision maker, and informal resolution facilitator shall receive training on the Title IX regulations, definition of sexual harassment, the scope of the education program or activity, how to conduct an investigation and grievance process, and how to serve impartially by avoiding prejudgment of facts, conflicts of interest, trauma-informed practices, and specific or general biases.

- 1.6 Any complaints of sexual harassment that fall outside the scope of Title IX will be handled consistent with applicable laws and regulations.

## 2.0 Definitions

- 2.1 Sexual harassment is defined as conduct on the basis of sex that satisfies one or more of the following:
- 2.1.1 An employee of the District conditioning the provision of an aid, benefit, or service of the District on an individual's participation in unwelcome sexual conduct; or
  - 2.1.2 Unwelcome conduct determined by a reasonable person to be so severe, pervasive and objectively offensive that it effectively denies a person equal access to the District's education program or activity; or
  - 2.1.3 Sexual assault as defined in 20 U.S.C. 1092(f)(6)(A)(v) "dating violence" as defined in 34 U.S.C. 1229(a)(10) "domestic violence" as defined in 34 U.S.C. 12291(a)(8) or "stalking" as defined in 34 U.S.C. 12291(a)(30)
    - 2.1.3.1 Forcible sexual assault includes any sexual act directed against a person, forcibly, against that person's will, or without consent; includes rape, sodomy, sexual assault with an object, and fondling
    - 2.1.3.2 Non-forcible sexual assault includes offenses that do not involve force where the person is incapable of giving consent, including statutory rape and incest
    - 2.1.3.3 Dating violence includes violence on the basis of sex committed by someone who has been in a social relationship of a romantic or intimate nature with the complainant; the existence of such a relationship shall be determined based on a consideration of the following factors: (a) the length of the relationship; (b) the type of relationship; (c) the frequency of interaction between the persons involved in the relationship
    - 2.1.3.4 Domestic violence includes felony or misdemeanor crimes of violence committed on the basis of sex by (a) a current or former spouse or intimate partner of the complainant; (b) a person with whom the complainant shares a child in common; (c) a person who is cohabitating with or has cohabitated with the complainant as a spouse or intimate partner; (d) a person similarly situated to a spouse of the complainant under the domestic of family violence laws of the jurisdiction receiving grant monies; or (e) any other person against an adult or youth complainant who is protected from that person's acts under the domestic or family violence laws of the jurisdiction

- 2.1.3.5 Stalking means engaging in a course of conduct on the basis of sex directed at complainant that would cause a reasonable person to (a) fear for their safety or the safety of others, or (b) suffer substantial emotional distress
- 2.1.3.6 “Sexual violence” includes physical sexual acts perpetrated against a person without the person’s affirmative consent as defined in California Education Code section 67386.
- 2.1.3.7 “Sexual battery” is defined as the intentional touching of another person’s intimate parts without consent, intentionally causing person to touch the intimate parts of another without consent, or using a person’s own intimate part to intentionally touch another person’s body without consent.
- 2.1.3.8 “Sexual exploitation” is defined as a person taking sexual advantage of another for the benefit of anyone other than that person without that person’s consent, including: prostituting of another person, trafficking of another person, recording images, video, or audio of another person’s sexual activity or intimate parts without that person’s consent, distributing images, video, or audio of another person’s sexual activity or intimate parts without that person’s consent, and viewing another person’s sexual activity or intimate parts without that person’s consent for the purpose of arousing or gratifying sexual desire.

### 3.0 Scope of the Education Program or Activity

- 3.1 An education program or activity includes locations, events, or circumstances over which the recipient exercised substantial control over both the respondent and the context in which the sexual harassment occurs, and also includes any building owned or controlled by a student organization that is officially recognized by a postsecondary institution.
- 3.2 At the time of filing a formal complaint, the complainant must be participating in or attempting to participate in the District’s education program or activities.
- 3.3 The District shall take reasonable steps to respond to sexual harassment complaints for incidents that occurred outside of the District’s educational program or activities, whether they are on or off campus, if there is any reason to believe that the incident could contribute to a hostile educational environment or otherwise interfere with a student’s access to education. These incidents would fall outside of Title IX and be governed by California law.

### 4.0 Reporting Misconduct

4.1 Any member of the LRCCD community who has suffered sexual harassment or sexual misconduct is encouraged to contact and/or file a complaint with the Title IX Coordinator at the district or college. If the Title IX Coordinator is involved in the alleged sexual misconduct, such complaint should be directed to the Chancellor or college president.

4.2 Upon receiving notice of a report or complaint, the Title IX Coordinator must promptly respond and acknowledge the complaint, provide the complainant supportive measures, advise the complainant of the Title IX grievance process, and advise the complainant that he/she/they may file a complaint with the U.S. Department of Education's Office for Civil Rights and/or local law enforcement.

## 5.0 Supportive Measures

5.1 Upon receipt of a report of alleged sexual harassment, the Title IX Coordinator must promptly contact the complainant to discuss the availability of supportive measures. Supportive measures are non-disciplinary, non-punitive individualized services offered as appropriate and reasonably available, without fee or charge to the complainant or respondent with or without the filing of a formal complaint. Such supportive measures should not unreasonably burden the other party, and may include, but are not limited to:

- 5.1.1 Counseling;
- 5.1.2 Increased security and monitoring of certain areas of campus;
- 5.1.3 Modifications of work or class schedules and locations;
- 5.1.4 Campus escort services;
- 5.1.5 Mutual restrictions on contact between complainant and respondent, including a written justification for the restriction. A mutual no-contact order shall not be automatically issued unless necessary to protect the noncomplaining party's safety or well-being;
- 5.1.6 Leaves of absence;
- 5.1.7 Emergency removal of a respondent from the District's educational program or activity, provided that the District perform an individualized safety and risk analysis, and determines that there is an immediate threat to the physical health or safety of any individual arising from the allegations. In such a situation, the respondent will be provided with written notice and an opportunity to challenge the decision immediately following the removal; or
- 5.1.8 Other appropriate supportive measures.

## 6.0 Formal Complaint Process

- 6.1 A formal complaint is a complaint filed and signed by a complainant or signed by the Title IX Coordinator alleging sexual harassment against a respondent and requesting that LRCCD investigate the allegations of sexual harassment. Formal complaints may be submitted via electronic submission so long as the complaint contains a digital signature indicating that the complainant is the person filing the formal complaint.
- 6.2 At the time of filing a formal complaint, the complainant must be participating in or attempting to participate in the education program or activity of LRCCD.
- 6.3 All formal complaints must allege facts with enough specificity to identify the respondent(s) and request that the college or district investigate the allegations. The complaint shall state any names (if known) and describe with reasonable specificity the incident(s) of alleged harassment, including the date and place of such incident(s). Complaints may also include attachments with any information that may be relevant to the investigation.
- 6.4 The district will apply a preponderance of the evidence standard (i.e. whether it is more likely than not) as its evidentiary standard for Title IX complaints and complaints that fall under district board policies. The preponderance of the evidence standard will be used to determine whether the allegations occurred and whether the respondent violated Title IX rules and/or LRCCD board policies prohibiting sexual harassment.
- 6.5 The parties may request to engage in an Informal Resolution Process any time after a formal complaint is filed and before a determination of responsibility is made after a live hearing. The Title IX Coordinator will assign an Informal Resolution facilitator who must be trained in the Title IX regulations.
- 6.6 The decision to use the informal resolution process should be made on a case-by-case basis and with the parties' voluntary consent. However, this process may not be used when a student complainant is alleging harassment by an employee.
- 6.7 If the Complainant and Respondent voluntarily consent to participate in the informal resolution process, the Informal Resolution Facilitator shall collect written consent to enter into informal resolution process and may subsequently make arrangements to commence this process. The Informal Resolution Facilitator shall provide the parties with a written notice disclosing:
- 6.7.1 The allegations;
  - 6.7.2 Requirements of the informal resolution process, including the circumstances under which it precludes the parties from resuming a formal complaint arising from the same allegations provided, however, that at any time prior to agreeing to a resolution, any party has the right to withdraw from the process and resume the grievance process with respect to the formal complaint; and

- 6.7.3 A description of any consequences resulting from participating in the informal resolution process, including that records will be maintained or could be shared.

## 7.0 Confidentiality

- 7.1 The identification of the complainant, respondent, reporting person(s), and witness(es) must remain confidential to the maximum extent possible, except for the disclosure of any information necessary to carry out the Title IX grievance process. The District shall consider any request to keep the process confidential, consistent with the Title IX regulations. All parties and witnesses will be notified to keep the information obtained within the process confidential at all times of the grievance process, except that the District cannot restrict the ability of the complainant or respondent from discussing the allegations under investigation or from gathering and presenting relevant evidence.
- 7.2 If a complainant requests confidentiality which could preclude a meaningful investigation or potential discipline, the District will generally grant the request unless disclosure of complainant's identity or an investigation is necessary. The District will consider the following factors when deciding whether disclosure of complainant's identity or an investigation is necessary:
- 7.2.1 There are multiple or prior reports of sexual misconduct against the respondent;
  - 7.2.2 The respondent allegedly used a weapon, physical restraints, or engaged in battery;
  - 7.2.3 The respondent is a faculty or staff member with oversight of students;
  - 7.2.4 There is a power imbalance between complainant and respondent;
  - 7.2.5 The complainant believes that the complainant will be less safe if the complainant's name is disclosed or an investigation is conducted; and
  - 7.2.6 The institution is able to conduct a thorough investigation in the absence of the complainant's cooperation.

## 8.0 Written Notice of Allegations and Investigation

- 8.1 Once a formal complaint is filed, the District must provide written notice of allegations and investigation to the parties. The Notice will include:

- 8.2 Sufficient details known at the time and with sufficient time to prepare a response before any initial interview, such as the identities of the parties involved in the incident, the conduct allegedly constituting sexual harassment, and the date and location of the alleged incident, if known;
- 8.3 A statement identifying that the recipient of the letter is a complainant or respondent to the complaint;
- 8.4 A statement that respondent is presumed not responsible for the alleged conduct until a determination regarding responsibility is made at the conclusion of the grievance process, and that adjudication of the alleged misconduct is not an adversarial process between the parties and witnesses.
- 8.5 The right to an advisor of complainant's or respondent's choice. The advisor may, but is not required to, be an attorney. If the either party does not have an advisor at the hearing, the District will provide an advisor at no cost during the hearing;
- 8.6 The prohibition against knowingly making false statements or submitting false information during the formal complaint process;
- 8.7 Any additional allegations that arise throughout the formal complaint process;
- 8.8 The prohibition of retaliation throughout the formal complaint process and afterwards.

## 9.0 Investigation Process

- 9.1 The investigator(s) has the burden to gather all evidence related to the complaint. The complainant and respondent have a right to gather and present relevant evidence to the investigator(s). The investigator(s) shall conduct an investigation of the complaint and review all relevant and directly related factual information gathered so the decision makers can determine whether the alleged conduct occurred and whether the conduct constitutes sexual harassment under Title IX.
- 9.2 The investigator(s) will be selected by the District's Title IX Coordinator and the investigator may not have any general or specific bias for or against complainant(s) or respondent(s), or any conflicts of interest or appearance of a conflict of interest. The investigator must be able to act independently and conduct an impartial and thorough investigation. The investigator must be adequately trained on the Title IX regulations and LRCCD's grievance process.
- 9.3 The investigator shall perform a trauma-informed and impartial investigation of the complaint and provide a final investigative report within 90 days of the Title IX Coordinator receiving the formal complaint. However, the District shall not unreasonably deny a student party's request for an extension of a deadline related to a complaint during periods of examinations or school closures. The District shall provide periodic status updates to complainant and respondent when available.

- 9.4 Before concluding the investigation, the investigator shall provide both parties an equal opportunity of at least 10 days to inspect and review any evidence obtained as part of the investigation that is directly related to the allegations raised in the formal complaint, including evidence that the District does not intend to rely on, as well as inculpatory or exculpatory evidence. During that time, the parties may submit a written response, which the investigator will consider before completing the final investigative report.
- 9.5 After creating a final investigative report that fairly summarizes the relevant evidence, the parties will have at least 10 days before any hearing to review the report and submit a written response or comment. The investigator(s) will communicate with the Title IX Coordinator on when and how the evidence and the final report will be disclosed to each party in accordance with the timing of the hearing.
- 9.6 Throughout this process, both parties and their advisors must receive written notification of interviews, changes or modifications to the process, meetings, hearings, appeals, and determinations.

## 10.0 Dismissal

- 10.1 Title IX Coordinators at the campuses must consult with the District Title IX Coordinator before dismissing any complaint. The Title IX Coordinator *must* dismiss the formal complaint if:
- 10.2 the allegations in the complaint would not fall under the definition of sexual harassment, even if proved
- 10.3 the alleged conduct in the complaint did not occur in the education program or activity, or
- 10.4 the alleged conduct in the complaint did not occur against a person in the United States.
- 10.5 The Title IX Coordinator *may* dismiss a complaint if:
- 10.6 the complainant notifies the Title IX Coordinator they would like to withdraw the formal complaint or allegations within the formal complaint,
- 10.7 the respondent is no longer enrolled or employed by the District, or
- 10.8 circumstances outside of LRCCD's control prohibit the gathering of sufficient evidence to reach a determination.
- 10.9 If a complaint is dismissed, the Title IX Coordinator must promptly provide simultaneous written notice of the dismissal to the complainant and respondent explaining the reasons for the dismissal and the right to appeal the dismissal within 15 days receipt of the notice.

## 11.0 Live Hearing Process

- 11.1 A live hearing shall take place after the final investigative report has been reviewed by the parties. The hearing shall be conducted by one or more hearing officers, (also known as the decision-maker or hearing panel.) The decision maker cannot be the Title IX Coordinator or the investigator and must be impartial, free of any specific or general bias, and not have a conflict of interest or an appearance of a conflict of interest. The hearing officers must also be trained on hearing procedures, weighing evidence, ruling on issues of relevance (including the relevancy of questions), and applying the preponderance of the evidence standard.
- 11.2 The Title IX Coordinator must provide each party with written notice of the expected date, time, location or manner in which the hearing will be conducted, the names of the hearing officers and participants, the purpose of the hearing, and a right to have an advisor present. The parties will also be notified that if they cannot obtain an advisor or if their advisor fails to attend the hearing, an advisor will be appointed to them at no cost. Each party will also be notified that they may submit questions before the hearing to be asked during the live hearing. The notice shall be sent to each party at the earliest time possible to ensure that each party has sufficient time to prepare to participate.
- 11.3 For the health and safety of the participants or at the district's discretion, the live hearing may take place virtually with technology enabling all participants to see and hear each other simultaneously. The hearing officers must be adequately trained in such technology in order to control the virtual meeting, to appropriately mute sound and control the video feed to prevent any interruptions, to prevent any direct cross-examination between the parties during the hearing, and to create separate virtual groups when necessary. For all live hearings, a record or transcript must be created and made available to all parties.
- 11.4 During the live hearing, the hearing officer must permit each party's advisor to ask the opposing party and witnesses any relevant question and allow for relevant follow-up questions. The respondent and complainant shall never have the ability to directly ask the other party any question at any time during the hearing. The hearing officer cannot draw an inference on the responsibility determination based solely on a party's or witness's absence from the live hearing or refusal to answer cross-examination or other questions.
- 11.5 When an investigator or hearing officer allows consideration of evidence about a dating relationship or prior consensual sexual relations between complainant and respondent, the mere fact of prior consensual sexual relations is not, by itself, sufficient to establish that the alleged conduct in the present matter was consensual. Before allowing any evidence of prior sexual relations or dating history, the investigator or hearing officer must provide a written explanation as to why the evidence is relevant.

- 11.6 Every question that is submitted prior to the hearing, including any additional questions presented during the hearing, will be subject to review by the hearing officers to determine if the question is relevant. If the hearing officers determine that a question is not relevant, the officers must explain the rationale behind such decision before prohibiting the advisor to ask the question.
- 11.7 At the conclusion of the live hearing, the hearing officers must make a determination regarding responsibility within 30 days. The written determination submitted to both parties must include:
- 11.7.1 Identification of the allegations potentially constituting sexual harassment as defined under the Title IX regulations;
  - 11.7.2 A description of the grievance process conducted;
  - 11.7.3 Findings of fact on each allegation;
  - 11.7.4 Conclusions on responsibility under the District's policy or code of conduct based on the findings of fact;
  - 11.7.5 Analysis and rationale for conclusions on responsibility;
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  - 11.7.8 Procedures and bases for an appeal by either party.

## 12.0 Disciplinary Action

- 12.1 If the hearing officers find that respondent sexually harassed complainant, the District shall take action against the respondent. Any action against the respondent shall be made promptly, effectively, and align with the severity of the offense. Any disciplinary sanction must be included in the hearing officer's determination to the respondent after the live hearing.

## 13.0 Remedial Measures

- 13.1 Remedial measures must be reasonably calculated to stop and/or address the prohibited conduct, prevent its recurrence, protect the complainant, and provide systemic remedies. These measures include, but are not limited to:
- 13.1.1 Providing an escort on LRCCD property to ensure safety;
  - 13.1.2 Ensuring the complainant and respondent do not have class together or work in the same area;
  - 13.1.3 Providing and enforcing a no-contact order;

13.1.4 Providing counseling, medical, and/or academic support services;

13.1.5 Removing the respondent from campus;

13.1.6 Arranging for the complainant to retake or withdraw from a course without penalty; and

13.1.7 Any other appropriate remedial measures.

13.2 A complainant shall not be required to enter a voluntary resolution agreement or any other form of resolution as a prerequisite to receiving remedial measures to safeguard the complainant's access to an educational program or activity.

## 14.0 Appeals

14.1 Both parties have an opportunity to appeal the written determination by the hearing officer within 15 days of receiving the written determination. The appeal shall be decided by an appeal decision-maker. This individual cannot be the Title IX Coordinator, investigator, or hearing officer on the same matter.

14.2 The appeal decision-maker shall notify all parties if an appeal is filed. The appeal decision maker shall determine if the appeal is appropriate. Appeals are appropriate if they are based on:

14.2.1 A procedural irregularity that affects the outcome of the formal complaint,

14.2.2 Any new evidence that was not reasonably available at the time the determination regarding responsibility or dismissal was made, that could affect the outcome of the matter; and

14.2.3 The Title IX Coordinator, the investigator(s) or the decision-makers had a conflict of interest or bias against complainants or respondents generally or the individual complainant or respondent that affected the outcome of the formal complaint.

14.3 Each party must be given a reasonable and equal opportunity to submit a written statement in support or challenging the outcome by the hearing officer. The appeal decision maker shall then review the original complaint, investigative report, written determination, and appeal before rendering a written decision within 45 days of receiving the appeal. Both parties will be notified of the appeal decision.

## 15.0 Retaliation

15.1 The District's board policies and interim Title IX grievance process prohibit retaliation of any kind. Retaliation includes any adverse action taken against a person participating in a protected activity, including reporting or disclosing any sexual misconduct and/or participation in the Title IX grievance process. Retaliation includes threats, intimidation, coercion, discrimination, reprisals, and/or adverse actions related to employment or education.

15.2 The District or any of its colleges may not intimidate, threaten, coerce, or discriminate against any individual for purposes of interfering with any right or privilege secured by Title IX or because the individual has made a report or complaint, testified, assisted, or participated in any investigation, hearing, etc.

15.3 Retaliation also includes charges against an individual for code of conduct violations that do not involve sex discrimination or sexual harassment, but arise out of the same facts or circumstances as a report or complaint of sex discrimination, for purposes of interfering with any right or privilege secured by Title IX. The exercise of rights under the First Amendment does not constitute retaliation. However, charging an individual with a code of conduct violation for making a materially false statement in bad faith in the course of the Title IX grievance proceeding does not constitute retaliation, provided that the determination on responsibility, alone, is not sufficient to conclude that any party made a materially false statement in bad faith.

15.4 Any complaints of retaliation must be filed with the Title IX Coordinator at the District or college.

## 16.0 Privileged or Confidential Reporting

16.1 A responsible employee of the District must report sexual misconduct to the Title IX Coordinator(s). Responsible employees include all employees of the District who (1) have a duty to report incidents of sexual misconduct and (2) that a student/employee reasonably believes has the duty listed above with the exclusion of professionally licensed medical counselors.

16.2 The District and colleges must keep confidential the identity of complainants, respondents, and witnesses, except as permitted by the Family Educational Rights and Privacy Act ("FERPA"), or as required by law or as necessary to carry out a Title IX investigation, hearing, or judicial proceeding.

## 17.0 Recordkeeping

17.1 The District will retain on file for a period of seven years after the conclusion of a case records of:

17.1.1 Each Title IX sexual harassment investigation, including the formal complaint, notice of allegations, investigation reports, dismissal letters, and/or any informal resolution and result;

17.1.2 The determination regarding responsibility and any audio or audiovisual recording or transcript of the live hearing;

17.1.3 The notice provided to the complainant and respondent of the determination and right to appeal from the result;

17.1.4 Any appeals and the final appeal decision;

- 17.1.5 All materials used to train Title IX Coordinators, investigators, decision-makers, and any person who facilitates an informal resolution process. Training materials shall include statistics on the prevalence of sexual harassment and sexual violence in the educational setting, and include data based on race, sexual orientation, disability, gender, and gender identity.
- 17.1.6 Any communications or documents that the District deems important to retain.

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LRCCD

Adm. Regulation Adopted: 4/14/2022  
Adm. Regulation Revised:  
Adm. Regulation Reviewed:  
Board Policy: